



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

February 24, 1988

Honorable Henry Lee Grimes  
Hunt County Auditor  
Hunt County Courthouse  
P. O. Box 1097  
Greenville, Texas 75401

LO-88-23

Dear Mr. Grimes:

This is in regard to an opinion request, RQ-1204, dated June 25, 1987, made by Wade Bennett while he was Hunt County Auditor. Mr. Bennett expressed disagreement with the advice given him by the county attorney, Toby C. Wilkinson, that the auditor might pay the bill of May 26, 1987, from White's Mine for the county's contract purchase of 227.6 tons of rock, at \$13.26 per ton, without violating the competitive bidding requirements under state law. The correspondence does not raise any other legal issues. This reply will deal solely with the competitive bidding question.

From the facts presented, it is our opinion that Mr. Wilkinson was correct in advising Mr. Bennett that the statutory requirement of competitive bidding is inapplicable to the purchase of rock in question since the county expenditure involved was \$3,017.98.

The pertinent statutes are former articles 2368a.3 and 2368a.5, V.T.C.S. (codified as chapter 271, subchapter B and chapter 262, subchapter C of the Local Government Code, effective September 1, 1987). Former article 2368a.5, known as the County Purchasing Act, imposes certain competitive bidding requirements on county contracts in excess of \$5,000.00. The other statute, former article 2368a.3, applies to certain public works contracts in excess of \$10,000. As the contract amount in question here was \$3,017.98, neither of the above referenced provisions is applicable.

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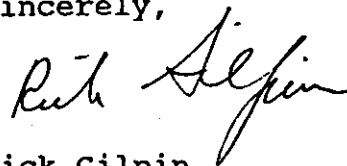
It should be noted that section 3(c) of former article 2368a.5, now codified as section 262.023(c) of the Local Government Code, provided:

In applying the competitive bidding and competitive proposal requirements established by Subsection (a) of this section, all separate, sequential, and/or component purchases of items ordered or purchased, with the intent of avoiding the competitive bidding and competitive proposal requirements of this Act, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract.

This office is not in a position to make factual determinations as to whether the purchase of rock in question was a "separate, sequential, and/or component" purchase or whether said purchase was made "with the intent of avoiding the competitive bidding and competitive proposal requirements of this Act."

Should you wish to particularize any other legal questions you have as to the propriety of your office's paying the referenced bill, please do so. Since the competitive bidding question can be answered by reference to the statutes cited above, we are considering that matter resolved by this informal letter ruling without the need of a published formal opinion, and are closing out the file on RQ-1204.

Sincerely,



Rick Gilpin  
Chairman  
Opinion Committee

RG/WW/bc